

66307-291-7



SPW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) PATENT  
Anthony Fred MERCURIO et al. )  
Serial No.: 10/702,041 ) EXAMINER: METZMAIER, D. S.  
Filed: November 6, 2003 ) CUSTOMER NO. 25269  
AEROSOL DELIVERY SYSTEMS ) CONFIRMATION NO. 7411

RESPONSE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

December 17, 2007

Sir:

In the Office Action of September 21, 2007 the examiner rejected claims 10 and 11 under 35 U.S.C. 103(a) as not being patentably distinct over the claims in (commonly assigned) U.S. Patent Application Publication 2004/0002550 (based on application Serial No. 10/183,985, filed June 28, 2002) or U.S. Patent Application Publication 2004/0116544 (based on application Serial No. 10/661,774, filed September 15, 2003, which was a continuation-in-part of application Serial No. 10/183,985, filed June 28, 2002). However, the examiner also stated that the rejection would be precluded by a showing that the inventions of the citation were commonly owned at the time the invention of this application was made.